



SERVICE EMPLOYEES
INTERNATIONAL UNION
CLC

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MEMO ENDORSED

Via Fax (212) 805-0426 Only

The Honorable Laura Taylor Swain
U.S. District Court
500 Pearl Street, Rm.
New York, NY 10007

IT IS ORDERED that counsel to whom this Memo
Endorsement is sent is responsible for faxing or
otherwise delivering promptly a copy to all counsel
and represented parties and filing a certificate of
such service within 5 days from the date hereof. Do
not fax such certification to Chambers.

Re: 251 West 36th Street, LLC v. Fishman
07 Civ 5860

Dear Judge Swain:

I am writing on behalf of Defendant Michael Fishman, President, Local
32BJ, Service Employees International Union ("Local 32BJ") to request an
extension of time until July 6, 2007 to answer and file an opposition to Plaintiff,
251 West 36th Street, LLC's ("the Employer's") petition to vacate an arbitration
award. I left voice mail messages for the Employer's counsel yesterday and today
regarding this request, but have not heard back from him yet.

The instant case was filed by the Employer in New York State Supreme
Court, and removed by Local 32BJ. In *D.H. Blair & Co. v. Gottdiener*, 462 F.3d
95 (2d Cir. 2006), the Second Circuit held that when a petition to vacate an
arbitration award is removed to federal court, it should be treated as a motion with
a return date, retaining the procedural posture it had in state court. The Employer's
petition in state court had a return date of June 29, 2007, with Local 32BJ required
to serve its answer seven days before the return date. Although the petition was not
properly served on Local 32BJ (it was only served by regular mail), it is Local
32BJ's preference to proceed to the merits provided that it receives an extension of
time to respond. Further, an extension of time would allow the parties to comply
with Individual Practice Rule 2.B requiring that the parties use their best efforts to
try to resolve the matter informally. Local 32BJ believes that there may be a basis
on which the case can be resolved without further intervention from the Court.

For the reasons set forth above, Defendant Local 32BJ respectfully requests
that the Court grant an extension of time until July 6, 2007 to file an answer and to
file papers in opposition to Plaintiff's petition to vacate the arbitration award.

The request is granted.

SO ORDERED.

Sincerely,

Andrew L. Strom (AS 2695)
Attorney for Defendant Local 32BJ

6/25/2007
LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE

cc. Joseph M. Labuda, via fax, (516) 328-0082

Office of the General Counsel

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